IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 373 OF 2007

Jahangir Ajij Dhalait
and ors. ..Petitioners
Vs.
The State of Maharashtra ..Respondent

Mr. Niteen Pradhan with Ms.Subhada Khot and Mr.Raju Tamgar for petitioners.
Ms. S.V. Gajare, APP for State.

**CORAM: B.H. MARLAPALLE, J.**

**Date : July 16, 2007.**

**P.C.:**

1. Heard Mr. Pradhan the learned counsel for the petitioners who are impleaded as accused in C.C. No. 150 of 2006 for the offences punishable under Sections 143, 147, 149, 436, 504 and 506 of IPC along with Sections 3 and 7 of the Prevention of Damage to Public Property Act, 1984. The incident in question has reportedly taken place on 7/3/2006 in the office of the complainant i.e. the Maharashtra State Electricity Distribution Company at Kolhapur. It is contended that, prima facie, there is no offence made out under Section 436 of IPC as well as Sections 3 and 7 of the Prevention of Damage to Public Property Act, 1984. An application for discharge was filed before the learned Magistrate at Exh.22 and the same has been

rejected on 8/9/2006. The case was subsequently committed to the Sessions Court and registered as Sessions Case No. 18 of 2006 and in the said case fresh application for discharge under Section 227 of Cr.P.C. was filed and the same has been rejected by the learned Ad-hoc Additional Sessions Judge, Ichalkaranji.

2. No interference is called for in the order passed by the learned Ad-hoc Additional Sessions Judge, Ichalkaranji rejecting the application for discharge. However, if, during the trial, it is noticed that the case does not make out an offence triable by the Sessions Court either under the IPC or under the Prevention of Damage to Public Property Act, 1984, and a case triable by the Judicial Magistrate is made out, undoubtedly the case will be transferred to the learned JMFC or the learned Chief Judicial Magistrate at Kolhapur, as the case may be.

3. Save and except the above observations, the petition is rejected as withdrawn.

**(B.H. Marlapalle,J.)**